

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MONTGOMERY CARL AKERS,

Plaintiff,

vs.

JAMES KESZEI, *et al.*,

Defendants.

Case No. 2:07-cv-00572-JCM-GWF

ORDER

Presently before the court is plaintiff Montgomery Carl Akers' motion to vacate the May 2, 2012, date to pay his filing fee. (Doc. #381).

Plaintiff has failed to show good cause why he should not pay the required filing fee. Plaintiff has maintained this case for over five years. On April 18, 2012, this court revoked plaintiff's *in forma pauperis* status, and ordered plaintiff to submit the \$350 filing fee by May 2, 2012. Plaintiff argues that he is appealing this court's order, and thus the date for paying the fee should be vacated. This court is not persuaded. If this court's order revoking *in forma pauperis* status is reversed, and plaintiff's *in forma pauperis* status reinstated, plaintiff may seek a refund of his filing costs.

Furthermore, this court notes that plaintiff has engaged in a series of dilatory tactics, a prime reason why this over five-year old case has yet to proceed past the pleadings. Here, plaintiff was made aware of this court's intention to revoke his *in forma pauperis* status as early as the magistrate judge's order to show cause, filed on February 7, 2012. On March 14, 2012, the magistrate judge issued a report and recommendation that plaintiff's *in forma pauperis* status be revoked. The filing fee was initially due on March 30, 2012. When plaintiff sought to challenge the magistrate judge's report and recommendation by filing extensions, this due date was vacated. Plaintiff sought, and received, extensions in which to file his objections to the report and recommendation. (Docs. #373 and 374). These extensions further delayed

1 the payment's due date. Plaintiff also sought to stay this court's order on the magistrate judge's report and
2 recommendation. Finally, on the last day before the filing fee was due, plaintiff filed the instant motion
3 seeking to vacate the due date. Given the tortured history of this case and plaintiff's repeated efforts to
4 prolong this litigation, such actions will not be tolerated.

5 If plaintiff wishes to maintain a lawsuit in federal court, he shall pay the appropriate filing fee as
6 he no longer benefits from *in forma pauperis* status.

7 Accordingly,

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff's motion to vacate (doc.
9 #381) be, and the same hereby is, DENIED.

10 DATED May 2, 2012.

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14 UNITED STATES DISTRICT JUDGE
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